

Relative to the merits of the application, Examiner has rejected claim 7, upon which claim 9 is based, under Section 102 as anticipated by Cook, Examiner noting that the hollow shell is made of resilient fabric and also notes the elastic means (d), and rear panel having first and second parts ( $a_2$ ) disposed in separate planes. Examiner notes that the first and second parts disclosed in separate planes at a mutual angle inherently provides a degree of excess material to relieve forwardly directed stress extended upon the upper panel when the cushion of the seating assembly is sat upon. Examiner states that these parts inherently contract to smooth the surface of the upper panel when the seating assembly is vacated.

In response, it is submitted that Cook relates to a different solution for a somewhat similar problem. Cook, in Figures 4 and 5, discloses an upholstered chair from which certain portions of the cover are provided with pads which prevent overlying portions of the cover from moving while permitting those portions of the covers which do not have pads to move freely. In particular (Figure 5) such a pad is provided at the seat portion with the intent that that portion does not move. It is noted in Figure 3 that the portion ( $a_2$ ) also does not move, and it is not in a pair of separate planes disposed at a mutual angle, as considered by Examiner.

It is believed that Examiner does not understand or fully appreciate Applicant's invention. The problem of providing stretchability in a cover for an upholstered chair is one that has been recognized in the art. Reilly, cited by Examiner, provides a resilient expandable member, which will compress under tension, as when the chair is sat upon, and which will expand when the chair is vacated to pull the fabric overlying the seat to a smooth condition. This is one solution, but it is a rather

expensive and involved one. Applicant does not rely upon the crevice existing between the seat back and seat cushion, which can accommodate excess material. Instead, Applicant provides the excess material in that portion of the cover which overlies the back panel of the seat cushion (see Figure 1 of Applicant's drawing), which excess material will not normally be visible when the cushion is in place. When the cushion is sat upon, there will be a natural stress on the seat cover material in a forward direction, and this is accommodated by the excess material in that portion of the cover which overlies the back panel of the seat cushion. This is the case irrespective of the amount of stretchability of the fabric itself. When the user arises, this stress is relieved, and that portion of the cover which overlies the back panel of the cushion will contract to its original two-plane configuration through tension exerted on the side seams, with this configuration being concealed from view. This construction is considerably simpler than that proposed by Reilly, and is relatively easy to manufacture. It is not suggested by Cook who tries to solve the problem by immobilizing that portion of the cover which overlies the upper surface of the seat cushion using underlying foam padding.

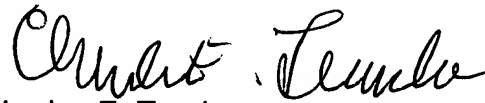
A very large number of references have been cited by Examiner and his predecessor, but it is submitted that none of these references show or suggest doing what Applicant is doing.

While Examiner may legitimately combine any number of references which show or suggest what Applicant is doing, to date, this has not occurred.

It is hoped upon reconsideration that Examiner will find the presence of allowable subject matter, and if he feels that a telephone interview may be helpful, he is invited to initiate one. If Examiner is convinced, upon reconsideration, that he has a combined reference structure which merely anticipates Applicant's invention, he is requested to clearly define his position, so that Applicant can prepare an appeal brief which adequately addresses his final rejection.

Further and favorable action is earnestly solicited.

Respectfully,

A handwritten signature in black ink, appearing to read "Charles E. Temko". The signature is fluid and cursive, with the first name "Charles" and last name "Temko" clearly distinguishable.

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